

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

4 UNITED STATES OF AMERICA, . Case No. 4:20-MJ-00240-JJV-1
5 PLAINTIFF, .
6 VS. . Little Rock, Arkansas
7 SKYLAR DAYNE GOODMAN, . November 4, 2020
8 DEFENDANT. . 4:26 P.M.
9 . Other case number:
10 . 3:20-CR-141
11 . District of North Dakota

18 ELECTRONIC COURT RECORDER-OPERATOR: Ms. Lorna Jones

20 Transcription Service: Robin Warbritton
21 Post Office Box 262
Vilonia, AR 72173

24 | PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING.

25 TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE.

1 APPEARANCES:

2 For the Government: Ms. Jana K. Harris
3 U.S. Attorney's Office
4 Eastern District of Arkansas
Post Office Box 1229
Little Rock, AR 72203-1229

5 For the Defendant: Ms. Sonia Fonticiella
6 Federal Public Defenders Office
7 The Victory Building
1401 West Capitol Avenue
Suite 490
Little Rock, AR 72201

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

DIRECT CROSS REDIRECT RECROSS BY THE COURT

GOVERNMENT'S WITNESSES:

4	Bryce Geiggar	11	16	19	
5	Eric Hellekson (Further Cross Exam)	20	30	41	32

DEFENDANT'S WITNESS:

8 Shirley Goodman 43 47 51

10 || EXHIBITS:

11 Government's Exhibit No. 1 13 15

12 ||

PROCEEDINGS

(Call to order of the Court.)

3 THE COURT: All right. We are on the record in the
4 matter of *United States of America v. Skylar Dayne Goodman*,
5 case 4:20-MJ-240 and case 3:20-CR-141.

6 We're here for a hearing pursuant to the Bail Reform
7 Act.

8 Mr. Goodman, can you hear me okay?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you agree to proceed by video today?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And I know in the courtroom we have your
13 attorney, Ms. Fonticiella, and for the United States, Ms. Jana
14 Harris, and also for the Pretrial Office, Officer Geiggar.

15 And are you all ready to proceed? I don't perceive
16 this is a presumption matter, is it?

17 MS. HARRIS: No.

18 THE COURT: Okay. And then, you know, we were trying
19 to evaluate kind of the posture of this thing, because you
20 have a warrant on a revocation and then you have a warrant on
21 a superceding indictment, correct? Am I correct on both of
22 that?

23 MS. HARRIS: (No audible response.)

24 THE COURT: So, it appears to me that the -- my role
25 would be on the superceding indictment, even though, like I

1 say, there was a -- a warrant issued on the revocation, but
2 it's kind of part and parcel.

3 So, what my view is, is he would go back to North
4 Dakota either in custody or not in custody and face the
5 revocation issue. But, for today, it's whether or not he goes
6 back to custody, to face arraignment either in custody or out
7 of custody. So, it's just basically a straight up Bail Reform
8 Act determination.

9 Do you all agree with me on that?

10 MS. HARRIS: Yes, Your Honor, well --

11 THE COURT: So, I guess really what I'm saying is I
12 don't know that I'm -- I don't know that I need to take up the
13 issue of whether he violated his bond. I mean, that's between
14 him and Judge Senechal up in North Dakota.

15 I think it's just a straight up he's been indicted,
16 there's a warrant on the superceding indictment, and whether
17 or not he should be released to go back there to be arraigned
18 or whether he should remain in custody and be transported
19 there.

20 Is that a fair assessment?

21 MS. HARRIS: Your Honor, from the United States --
22 United States' standpoint it is, but we would also be arguing
23 the violation as a part of why he should be detained.

24 THE COURT: Understand.

25 MS. HARRIS: Okay.

1 THE COURT: What is your assessment, Ms. Fonticiella?

2 MS. FONTICIELLA: Your Honor, I -- my understanding
3 is we're here for both, and that this Court could -- would
4 have authority to make a determination on the revocation since
5 he is supervised out of this district, but -- but I understand
6 -- (feedback on the recording) -- I don't know why this is --

7 THE COURT: Yeah, it's Judge Senechal's order, so I
8 think he has to deal with her on that. Even though we had
9 that in, what, Mr. Ivory's case --

10 MS. FONTICIELLA: Uh-huh.

11 THE COURT: -- which I think you represent Mr. Ivory
12 on, a little different because that was our case here, the
13 case was out of Arkansas. There, the case is out of -- here,
14 the case is out of North Dakota. So, I mean, I don't know
15 that it really matters that much. It's still the same
16 analysis on whether he's a risk of flight or a danger to the
17 community or both and whether or not I could fashion a
18 combination of conditions or conditions to get him back to
19 North Dakota, in my opinion, to face two things, face the
20 revocation issue and face the arraignment. That's what he
21 needs to -- eventually, he's got to go back to North Dakota,
22 because I'm also looking at it if I'm -- two courses of
23 action, if I release him, then he's got to go deal with the
24 revocation matter in North Dakota, and then be arraigned. If
25 I detain him, then -- on the revocation, I don't know that

1 Judge Senechal really -- I mean, then it's between him and the
2 District Judge, I guess, on arraignment, what the District
3 Judge would want to do if I detain him on the arraignment.
4 And then, it almost makes the revocation irrelevant.

5 So, I don't know that it really matters that much.
6 You're welcome to present whatever evidence you want to
7 present and I'll consider it, but I'm just going to basically
8 consider it as a straight as if he was indicted and -- you
9 know, in this district, and whether or not he should be
10 detained or released.

11 MS. HARRIS: Okay. And then he'll face his
12 revocation hearing once he gets back to North Dakota either by
13 way of the Marshals Service or on his own steam?

14 THE COURT: Right. But, like I say, in my opinion,
15 legally -- and that's for them to work out -- but if I detain
16 him, and he goes back up there, then I don't think -- you
17 know, I think Judge Senechal can either, you know, revoke him
18 or not, but it has no impact, because, you know, as we know,
19 if I detain him here on this, and, you know, I guess he needs
20 to know this, that this is going to be his bond hearing. And
21 I understand why you want to proceed here, but if he goes up
22 there, only the District Judge then -- if I detain him, only
23 the District Judge could release him.

24 MS. HARRIS: Yeah. We -- we understand that, Your
25 Honor.

1 THE COURT: Okay. All right.

2 You may proceed, Ms. Harris.

3 MS. HARRIS: Okay. Your Honor, for purposes of the
4 hearing, would the Court consider the Pretrial Services
5 Report?

6 THE COURT: So, I've been given several things in the
7 file, there is a Pretrial Services Report, and I'm looking at
8 -- the date is September 14th, 2020; is that the one you want
9 to go off of? It's in the last page.

10 MS. HARRIS: Oh.

11 THE COURT: It says 9/14, prepared by Megan Nelson.

12 MS. HARRIS: Yes, Your Honor.

13 THE COURT: Okay.

14 MS. HARRIS: Yes, Your Honor.

15 THE COURT: Is there any reason to not make that a
16 part of the record, Ms. Fonticiella?

17 MS. FONTICIELLA: Your Honor, no, I mean, I think we
18 can use it like we do.

19 THE COURT: All right. It will be admitted.

20 MS. HARRIS: And then, Your Honor, just so the order
21 setting conditions of release in North Dakota, to make that a
22 part of the record. I believe that's one of the documents
23 that Probation had sent.

24 THE COURT: Okay. And I have seen that. I mean,
25 that's part of the record because it's part of the docket, but

1 any reason why I can't consider that?

2 MS. FONTICIELLA: No objection, Your Honor.

3 THE COURT: All right.

4 MS. HARRIS: And, Your Honor, the only other thing I
5 would ask to make a part of the record, and I don't believe
6 the Court has this, there is a -- there is a pending charge
7 against the defendant out of North Dakota. I believe the
8 arrest date was on June 27th, 2020. And the Probation Officer
9 had obtained a portion of a -- a police report from that. We
10 do not have a law enforcement officer to call. We would just
11 call Officer Geiggar to testify that he received this from the
12 Probation Office in North Dakota.

13 THE COURT: Is this -- it's case 9-2020-CR-026898
14 (sic)?

15 MS. HARRIS: Yes, Your Honor.

16 THE COURT: Or 2689.

17 MS. HARRIS: Well, 2689. Yes, Your Honor.

18 THE COURT: Yeah. Any objection to that being made
19 part of the record?

20 MS. FONTICIELLA: Yes, Your Honor. I'd object on a
21 couple of bases, and I understand -- I always preface this
22 with I understand the Rules of Evidence don't apply in bond
23 hearings, but this is not a complete document. There is no
24 agent to testify about it. And it's -- it's so unreliable and
25 overly prejudicial based on the way that it's been obtained

1 and being presented to the Court, and based on the amount of
2 hearsay that's in here, the -- I think it's -- it's overly
3 prejudicial and incomplete and should not be received in
4 evidence for those reasons.

5 THE COURT: Response?

6 MS. HARRIS: And, Your Honor, we would submit this is
7 what Probation in North Dakota sent to Probation here, sent to
8 Officer Geiggar. And we would submit that any weight to be
9 given to it -- or I guess the question -- it wouldn't be a
10 question of admissibility, it would be a question of weight.
11 Obviously, we don't have the officer who took the report. We
12 would just have Officer Geiggar who received this report. And
13 I don't know that his receipt of it would be an issue. And I
14 would just ask the Court to consider it and give it what
15 weight the Court deem necessary.

16 And does the Court have a copy of it?

17 THE COURT: I do.

18 MS. HARRIS: Okay.

19 THE COURT: Well, I think -- I think you need to --
20 let's lay a foundation, at a minimum, if -- if there's an
21 objection, because I don't -- I mean, I'm looking at it and
22 I'm curious how it got to my bench here, and so I think we
23 probably need to understand a little bit about where it's
24 coming from and how it was received and all that stuff. So
25 why don't you put Officer Geiggar on the stand, and then I'll

Geiggar - Direct

11

1 let Ms. Fonticiella cross examine him.

2 So, for right now, I'll hear from him first and then
3 I'll decide what to do with it.

4 MS. HARRIS: Okay. Thank you, Your Honor.

5 (BRYCE GEIGGAR, GOVERNMENT'S WITNESS, SWORN.)

6 THE COURT: And you're free to take your mask off if
7 you want. You can keep it on or take it off. It's up to you.

8 MR. GEIGGAR: Yes, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. HARRIS:

11 Q Would you state your name for us, please, and where you're
12 employed?

13 A Bryce Geiggar, United States Probation Office.

14 Q Okay. And are you supervising the defendant in the
15 Eastern District of Arkansas?

16 A I am.

17 Q And when did you begin supervision of him?

18 A I believe it was October the 12th.

19 Q And he is currently charged in the District of North
20 Dakota; is that correct?

21 A That is correct.

22 Q Okay. And you received the Pretrial Services Report from
23 the District of North Dakota?

24 A That is correct.

25 Q And one of the pending charges that is listed in there is

Geiggar - Direct

12

1 for a date of arrest on June 27th, 2020 for two counts; one,
2 for terrorizing with a dangerous weapon; and then, count two,
3 for domestic violence with assault/bodily injury. And in
4 connection with that particular offense, did you contact the
5 Probation Officer -- his supervising Probation Officer in
6 North Dakota?

7 A I did.

8 Q And did you request a copy of the underlying police report
9 for this incident?

10 A Yes, I requested a copy of a police or incident report
11 relating to that incident.

12 MS. HARRIS: And, Your Honor, may I approach?

13 THE COURT: Yes.

14 BY MS. HARRIS:

15 Q I'm going to show you what we're going to mark as Exhibit
16 1 for your testimony. And there are two pages to that.

17 A Okay.

18 Q And can you tell us what this is, please?

19 A This is the report that was provided by the supervising
20 officer in the District of North Dakota pertaining to the June
21 27th, 2020 arrest of the defendant.

22 Q Okay. And, indeed, the first page of the report of
23 Officer Annie Brewer is dated June 27th, 2020; is that
24 correct?

25 A That is correct.

Geiggar - Direct

13

1 Q And the report begins that she was working on Saturday,
2 June 27th, 2020?

3 A That is correct.

4 Q And then, the case number that appears in the Pretrial
5 Services Report, does that also match the case number that
6 appears on this two page report?

7 A It does.

8 Q And this is the report that was sent in response to your
9 request?

10 A That is correct.

11 Q And that you provided to the parties?

12 A That is correct.

13 MS. HARRIS: Your Honor, at this time, I would move
14 for introduction of Government's Exhibit No. 1.

15 (Government's Exhibit No. 1 identified.)

16 THE COURT: Well, do you have --

17 MS. FONTICIELLA: Your Honor?

18 THE COURT: -- do you want to ask?

19 MS. FONTICIELLA: Same objection, Your Honor.

20 There's -- this document is not signed. It's not complete.
21 And, you know, I know I always get shot down on my hearsay
22 objections in bond hearings, but I make them anyways. It's
23 extreme hearsay at this point, especially without even having
24 a complete document. So, I understand that the numbers may
25 match up, but I -- I think this is -- there needs to be some

Geiggar - Direct

14

1 -- some level of reliability, and I have no doubt that Mr.
2 Geiggar is testifying truthfully, but if the document is not
3 complete, then he can't tell this Court that it's an accurate
4 document.

5 MS. HARRIS: But, Your Honor, I would submit that
6 when you read the -- the document itself, it does start with
7 the beginning of the incident, and then ends with the officer
8 providing the domestic violence worksheet and danger
9 assessment, going over that with the victim. So, it tells the
10 victim's story.

11 THE COURT: Let me ask -- let me ask the officer.
12 Officer Geiggar, so you -- you requested this information?

13 MR. GEIGGAR: I did, Your Honor.

14 THE COURT: And was that just as initially
15 supervising him, or was this a part of this hearing?

16 MR. GEIGGAR: In preparation of this hearing, Your
17 Honor.

18 THE COURT: And what was the -- why did you ask for
19 this?

20 MR. GEIGGAR: In preparation of the hearing, I spoke
21 with Ms. Harris and she requested that I contact that office
22 and obtain a copy of this report.

23 THE COURT: Okay. And, so, did you talk to the
24 officer out there, the Probation Officer out there?

25 MR. GEIGGAR: I -- I talked with the officer via

Geiggar - Direct

15

1 telephone and I received the reports via the Internet.

2 THE COURT: Okay. The e-mail?

3 MR. GEIGGAR: Yeah, I'm sorry, e-mail, Your Honor.

4 THE COURT: Did you ever ask why -- it looks like the
5 report is incomplete, did you ask if there was any more of the
6 report or anything?

7 MR. GEIGGAR: Your Honor, my understanding, when I
8 asked for the report, she stated that she was forwarding all
9 that she had pertaining to this particular case.

10 THE COURT: And the -- the information as well, the
11 charge information, did you ask for that as well?

12 MR. GEIGGAR: Yes, Your Honor. I asked for all
13 information pertaining to today's hearing.

14 THE COURT: All right. Yeah, I -- I mean, I think it
15 goes to weight versus admissibility in this hearing, based on
16 the rules of not having a rule. So, you make some good
17 points. I'll let you argue also. But I'm going to receive it
18 and it can be a part of the evidence.

19 (Government's Exhibit No. 1 received.)

20 MS. FONTICIELLA: May I -- may I make one more
21 objection, just to make a record, Your Honor?

22 THE COURT: You may.

23 MS. FONTICIELLA: Mr. Geiggar just testified that he
24 asked for the -- all the documents related to that incident,
25 and that that is what that officer in North Dakota said that

Geiggar - Cross

16

1 he provided -- or she provided, but their -- even their
2 complete copy is incomplete then. So, I -- I would like that
3 to be just real clear on the record as far as weight goes.

4 THE COURT: I understand. Well, and I think, you
5 know, the better argument is that the only reason Officer
6 Geiggar has it is because Ms. Harris asked him to get it.

7 MS. FONTICIELLA: Yes.

8 THE COURT: So, I don't know that that's --

9 MS. FONTICIELLA: I didn't -- I didn't want to be --

10 MS. HARRIS: Well, but I would -- I would submit that
11 that doesn't make it inherently unreliable. It's just going
12 on a report instead of just the officer's reading it, so.

13 THE COURT: I agree. And like I say, I -- I think
14 it's clearly admissible. And, you know, the -- whether or not
15 it's reliable, given the fact that it is incomplete, is
16 something for me to consider. So, I'll do so.

17 MS. HARRIS: Thank you.

18 THE COURT: All right. Anything else of this
19 witness?

20 MS. HARRIS: No, Your Honor.

21 THE COURT: Do you have anything of this witness?

22 MS. FONTICIELLA: I do.

23 CROSS EXAMINATION

24 BY MS. FONTICIELLA:

25 Q I know you've only --

Geiggar - Cross

17

1 MS. FONTICIELLA: Well, may I proceed, Your Honor?

2 THE COURT: Please. Because I was going to ask the
3 same question.

4 MS. FONTICIELLA: Okay.

5 BY MS. FONTICIELLA:

6 Q Officer, I know you've only had him since, what did you
7 say, October 12th, right?

8 A October 12th. That is correct.

9 Q Okay. And he -- he has been staying in Arkansas since
10 that time with his mother, correct?

11 A That is correct.

12 Q Have you been in regular contact with him?

13 A I spoke with the defendant on October the 12th. We've
14 talked via telephone on two other occasions. And we talked
15 prior to him being taken into custody on yesterday's date.

16 Q Okay. And he did come into the courthouse to meet with
17 you that day when you asked him to, correct?

18 A That is correct.

19 Q Okay. And he didn't know -- oh, he was trying to comply
20 with all the conditions and everything at that point -- with
21 your instructions, I should say?

22 A That is -- he -- he reported as directed on that date.

23 Q Okay. Had he complied with any other requests or, you
24 know, requirements as far as you're concerned with in -- in
25 your interactions with him?

Geiggar - Cross

18

1 A Mr. Goodman reported to the Probation Office as
2 instructed, I believe it was on October the 13th, for
3 completion of his intake. And he reported as directed on
4 yesterday's date for a meeting with myself and a drug screen.

5 Q Okay. Have you done a home visit or anything like that?
6 And I understand that COVID has kind of made that more
7 difficult, but.

8 A I did a virtual residence verification prior to Mr.
9 Goodwin (sic) -- Mr. Goodman's arrival in Arkansas.

10 Q And did you find that his -- his home was suitable and
11 everything was in order?

12 A That is correct.

13 Q Okay. And there's no evidence to suggest that's changed
14 since yesterday, correct?

15 A That is correct.

16 Q Are you aware of any job applications or any of his
17 efforts in trying to maintain employment -- gain employment,
18 maintain it, and/or go to school?

19 A Mr. Goodman informed me last week that he was in the
20 process of obtaining employment. When I followed up with him
21 on Monday, he then told me that that job opportunity fell
22 through and he was actively searching for employment again.

23 Q Okay. And the -- you're familiar with the PS-8, right?

24 A Yes, I am.

25 Q Okay. And the allegation is that he had tampered with

Geiggar - Cross/Redirect

19

1 witnesses, correct?

2 A Yes, it's alleged that he violated conditions number 1 and
3 conditions number 9.

4 Q Okay. And all of those alleged witnesses are in North
5 Dakota, correct?

6 A I'm unaware of where the witnesses are located.

7 Q Okay. But you -- but you know Mr. Goodman is here and
8 will -- and intends to stay here, correct?

9 A Mr. Goodman is approved to reside with his parents per the
10 court order, and his parents are residing here in Arkansas.

11 MS. FONTICIELLA: Okay. Nothing further, Your Honor.

12 THE COURT: Anything from the United States?

13 REDIRECT EXAMINATION

14 BY MS. HARRIS:

15 Q When you told him to report, did you let him know that
16 there was an outstanding arrest warrant for him?

17 A I did not.

18 Q Okay.

19 MS. HARRIS: That's all I have, Your Honor.

20 THE COURT: All right. Officer, you may stand down.

21 Thank you.

22 (Witness steps down.)

23 THE COURT: You may call your next witness.

24 MS. HARRIS: Your Honor, we would call Special Agent
25 Eric Hellekson.

Hellekson - Direct

20

1 THE COURT: All right. Dialing him up by phone, I
2 guess. Okay. FBI Agent?

3 MS. HARRIS: Yes, Your Honor. He's out of Fargo,
4 North Dakota.

5 MR. HELLEKSON: Hello.

6 THE COURT: Is this Agent Hellekson?

7 MR. HELLEKSON: Yes.

8 THE COURT: This is Joe Volpe. I'm a U.S. Magistrate
9 Judge in the Eastern District of Arkansas. I'm going to put
10 you under oath. And then the United States will ask you
11 questions, and then the defense will cross examine you. Okay?

12 MR. HELLEKSON: Okay.

13 THE COURT: Do you swear to tell the truth, the whole
14 truth, and nothing but the truth, so help you God?

15 MR. HELLEKSON: I do.

16 (ERIC HELLEKSON, GOVERNMENT'S WITNESS, SWORN.)

17 THE COURT: All right. Ms. Harris, you may ask.

18 DIRECT EXAMINATION

19 BY MS. HARRIS:

20 Q Could you state your name for the record, please, and tell
21 us -- and tell us where you're employed?

22 A My name is Eric Lee Hellekson. I'm employed with the FBI
23 as a Special Agent.

24 Q And you're in the District of North Dakota?

25 A Yes.

Hellekson - Direct

21

1 Q Okay. And how long have you been with the FBI?

2 A I've been with the FBI for just over 17 years, since
3 August 2003.

4 Q And are you familiar with the facts concerning the pending
5 federal charges against Skylar Goodman?

6 A Yes. I'm having some difficult time hearing you.

7 THE COURT: Try to pull the --

8 MS. HARRIS: Okay.

9 THE COURT: -- mic a little more directly in front of
10 you, like --

11 BY MS. HARRIS:

12 Q Agent -- okay -- can you hear me better now?

13 A Yes, I can.

14 Q Okay.

15 THE COURT: So you have it -- you have it at a angle.
16 It's got to be straight forward. There you go.

17 BY MS. HARRIS:

18 Q And if it gets to where you can't hear me, because I turn
19 my head, just let me know. Okay?

20 A Okay.

21 Q Okay. So the charges that the defendant is facing is out
22 of the District of North Dakota?

23 A Yes.

24 Q Okay. And he was initially indicted in May of 2020 in a
25 one count indictment charging him with attempting to wreck,

Hellekson - Direct

22

1 derail, and disable a train?

2 A Yes.

3 Q And that was for conduct that occurred on May 7th, 2020?

4 A Yes.

5 Q Can you give us just a brief summary of what happened on
6 May 7th, 2020; what happened with the train that day?

7 A Sorry. So, on May 7th, at approximately 9:55 p.m.,
8 approximately one mile west of Casselton, North Dakota, on the
9 double main line rail, which runs parallel to Interstate 94, a
10 freight train, Burlington Northern Santa Fe freight train
11 engineer, reported a rough rail at a crossing, which occurred
12 at 154th Avenue Southeast. And the train experienced a jump
13 in the track at that crossing. The engineer reported it
14 immediately to a track inspector, and within an hour the track
15 inspector responded to the area of the crossing and observed
16 pieces of rerailer laying near the crossing and the crossing
17 was damaged.

18 Q Okay. And you said that there were pieces of a rerailer?

19 Is that --

20 A Yes, that's correct.

21 Q Okay. Can you tell the Court what a rerailer is?

22 A Yes. It's a piece of rail equipment used to place rail
23 cars back onto a track after a derailment. The rerailer is
24 approximately three feet long by two feet wide, and it's made
25 of steel, and weighs anywhere from a hundred to 120 pounds.

Hellekson - Direct

23

1 Q Okay. And did the inspector go back the next day during
2 the daytime?

3 A Yes, he did.

4 Q Or he. Sorry. And can you tell the Court about the color
5 of the rerailer?

6 A Yes. The rerailers are supposed to be yellow so it's high
7 visibility so that one is not left behind at the job site and
8 engineers can spot it. These -- this rerailer, the parts were
9 spray painted black, like rattle can black colored, instead of
10 yellow.

11 Q And what steps did the investigator take next at that --
12 at the scene?

13 A So, the track inspector contacted Burlington Northern
14 Santa Fe police officer Kerri Gortmaker, who responded on the
15 8th. She took photographs of the damage to the rail and the
16 pieces of the rerailer. One piece was actually still wedged
17 into the crossing between the track and the concrete. And
18 then she collected what she could of the rerailer.

19 Q Okay. And was a camera also set up at that location?

20 A Yes. She actually set up two cameras. One was a game
21 camera that she set up on a crossbuck at the crossing. The
22 second camera was a video camera. One of the cameras was
23 linked to her cell phone to alert her if any photos had been
24 taken or if there was activity.

25 Q Okay. And then was she alerted that there was activity

Hellekson - Direct

24

1 that took place on May 11th, 2020?

2 A Yes. On May -- on May 11th, she got a message that one of
3 the cameras had activity on it.

4 Q And then what did it capture; what did the camera capture?

5 A So, she responded out the next day and downloaded the
6 cards, and saw video and still photos of two males dressed in
7 hoodies, hooded sweatshirts with the hoods up, walking around
8 the railroad crossing with flashlights. The camera also
9 captured the vehicle the two had come from, and it appeared to
10 be a Ford Explorer, police car looking Ford Explorer.

11 Q Okay. Did the video or the still photographs also capture
12 the license plate number of that vehicle?

13 A Yes, it did.

14 Q And who did -- who did that return to; who did the license
15 plate return to?

16 A It was registered to Skylar Goodman.

17 Q And then, did the investigation also determine that, at
18 that time, the defendant had worked for a company that was
19 contracted by the railroad to do this -- to rerail trains?

20 A Yes. Skylar Goodman was employed with RJ Corman, who
21 rerails -- contracts to rerail trains for Burlington Northern
22 Santa Fe.

23 Q And, so, was the defendant and another individual, a
24 juvenile, identified as the two individuals who were there on
25 May 11th?

Hellekson - Direct

25

1 A Yes. Skylar Goodman was identified as one of the subjects
2 and -- was later identified as one of the subjects, and a
3 juvenile also was later identified.

4 Q Okay. And that -- and then, at some point, was he
5 interviewed and did he admit that that was -- that he was in
6 that video with the juvenile on May 11th at that crossing?

7 A Yes, he did.

8 Q And did he say that he and the juvenile had put a beam on
9 the track?

10 A Yes.

11 Q And that he knew that trains passed there on a regular
12 basis?

13 A Yes.

14 Q Okay. And then, why had they returned there on May 11th;
15 why did he say that they returned there?

16 A He said that he was really worried about -- that he was
17 worried about damage to the crossing and to pick up the pieces
18 of rerailer is why they returned.

19 Q Okay. And it's my understanding that he was interviewed
20 on another occasion, and in the later interview he denied
21 helping to place any things on the railroad tracks and blamed
22 the juvenile for it? Is that --

23 A Yes, that's correct.

24 Q And then, after he was indicted on count one, the violence
25 against a railroad carrier, was an arrest warrant issued for

Hellekson - Direct

26

1 him at that time?

2 A Yes.

3 Q Okay. And was he arrested on that charge?

4 A Yes, he was.

5 Q And I guess that arrest was in North Dakota; is that
6 correct?

7 A It was.

8 Q Okay. So, he was in jail then for a period of a handful
9 of days?

10 A Yes. He was arrested on -- would have been September
11 11th, 2020, and released on September 14th, 2020.

12 Q Okay. And while he was in custody, did -- as part of your
13 investigation, did you obtain jail calls that he made?

14 A Yes.

15 Q And these are jail calls that he made to his mom and his
16 dad?

17 A Yes.

18 Q And I believe that there was a friend -- or in some of the
19 calls maybe there was a friend that was on the line?

20 A Yes. A friend identified as Tyler Salo (phonetic).

21 Q And do you know whether or not in any of those calls that
22 he wanted his friend, Tyler Salo, to get in touch with the
23 juvenile?

24 A Yes. He asked Tyler if he could get a hold of the
25 juvenile involved in the incident to see if the juvenile was

Hellekson - Direct

27

1 still on his side.

2 Q And later, at some point in September of 2020, did an
3 individual named Josiah -- and I'm not sure if I know how to
4 say the last name -- Asbe (phonetic), maybe.

5 A Yes.

6 Q I'm not sure if I'm saying that correctly. Did that
7 individual --

8 A Yes, that's correct. Josiah Asbe.

9 Q Asbe. Okay. Did he contact investigators?

10 A Yes, he did.

11 Q And what did he tell them?

12 A He originally contacted Burlington Northern Santa Fe's
13 ROCC, which is their call center, requesting to speak with
14 Burlington North Santa Fe police officer Kerri Gortmaker.

15 Q Okay. And what --

16 A And he ended up speaking with Gortmaker, which would have
17 been on September 17th. He made telephone contact with
18 Gortmaker, telling her that he saw a newsfeed involving Skylar
19 Goodman and a -- and the juvenile, and he had information that
20 law enforcement had every -- everything incorrect, and that
21 Skylar didn't place a derailer on the track.

22 Q Okay. Did he tell them who did at that point?

23 A Yes. He said that he was -- he had witnessed the
24 incident. He was in the car when the juvenile placed the
25 derailer on the track. He called it a derailer. It's

Hellekson - Direct

28

1 actually a rerailer. But, and that was later sorted out with
2 him. But he basically said that Goodman stayed in the car and
3 the juvenile, while driving the car, threw the rerailer out
4 the window.

5 Q Did Mr. Asbe meet with investigators and talk about what
6 happened on multiple occasions?

7 A Yes. We met first with Mr. Asbe on the next day, which
8 would have been September 18th. We met with him and
9 interviewed him.

10 Q Okay. And when you say we, who was it that met with him
11 and interviewed him on the 18th?

12 A Myself and Burlington Northern Santa Fe police officer
13 Kerri Gortmaker.

14 Q Okay. And did you confront him about the story -- and I
15 think you said he said it was a re -- derailer instead of a
16 rerailer?

17 A Yes.

18 Q Okay. Did you confront him about his story and about
19 whether or not that would even be possible for somebody to do
20 what he said they did?

21 A I did. Yes.

22 Q Okay. And did he admit to officers that he was not
23 truthful about that?

24 A He did. He admitted that he wasn't truthful about the
25 rerailer being thrown out the window.

Hellekson - Direct

29

1 Q Okay. And at the end of the day, can you tell us what he
2 told you about what happened?

3 A By the end of the interview, Josiah Asbe indicated that he
4 was not there, he did not witness the incident, and that he
5 felt threatened by Skylar Goodman, who contacted him in order
6 to tell the -- the story that he had told us originally. He
7 told us that Goodman contacted him, told him to tell the story
8 to the Burlington Northern Santa Fe police and to also contact
9 the media saying that Goodman was -- did not place the
10 rerailer on the track. Essentially, by the end of the
11 interview, he had stated that he was not -- that he, Josiah
12 Asbe, did not witness the incident and that Goodman had
13 contacted him, telling him what to say.

14 Q And was Mr. Asbe in the city or in that location even at
15 that time, or what did he tell you about that --

16 A No. He was --

17 Q -- about where he was?

18 A -- working in Iowa.

19 Q Can you say that one more time? Working where?

20 THE COURT: Iowa.

21 MS. HARRIS: Iowa. Okay.

22 THE WITNESS: He was working in the state of Iowa at
23 the time.

24 MS. HARRIS: Okay.

25 BY MS. HARRIS:

Hellekson - Cross

30

1 Q And did Mr. Asbe say that he was afraid of the defendant?

2 A Yes, he did.

3 MS. HARRIS: Your Honor, that's all the questions I
4 have.

5 CROSS EXAMINATION

6 BY MS. FONTICIELLA:

7 Q Agent Hellekson, this is Sonia Fonticiella. I'm defense
8 counsel for Mr. -- Mr. Goodman. Can you hear me okay?

9 A Yes. Yes, I can.

10 Q Okay. I first want to ask you about this jail phone call.
11 That -- that happened right after his arrest, correct -- his
12 initial arrest?

13 A There were several calls made. I believe a total of nine.
14 And --

15 Q Well, I'm asking about the time frame. Did they happen
16 before -- they happened before he was released on his bond
17 conditions, correct?

18 A I'm not certain of that. I believe so. I believe you
19 might be correct.

20 Q Okay. Then Mr. -- I want to get to Mr. Josiah Asbe. He
21 told you some pretty wild stories, didn't he?

22 A He told me various stories.

23 Q Okay. And -- and a lot of those were untrue, correct?

24 A Yes.

25 Q In fact, he even admitted to lying to you several times?

1 A Yes.

2 Q Even about things that didn't -- didn't matter, correct?

3 A Well, I would not say that's correct. I would say it all
4 mattered.

5 Q Okay. Well -- well, so -- and I'll -- on page 4 of 7 of
6 one of these -- of one of these reports, it says he initially
7 stated that he and Goodman met at a Walmart in Fargo and
8 recorded a video there. And then -- but then he -- but the
9 location was incorrect of some video that was allegedly
10 recorded, and then he -- he said he doesn't know why he lied
11 about it, other than that he was scared or an impulsive,
12 right? So, that really -- the location of the video didn't
13 matter, but he's lying to you about all kinds of stuff is my
14 point, correct?

15 A Yes.

16 Q Okay.

17 A I'm not -- I'm not -- you know, I'm trying to look for 4
18 of 7. Yes, it says that he initially stated he and Goodman
19 met at Walmart.

20 Q Yes.

21 A He later, I believe, recanted that.

22 Q Yeah. Because you -- you had to confront him a few times
23 about different things that he was lying about, right?

24 A Yes. Another agent was interviewing him along with, you
25 know, Gortmaker -- agent and Gortmaker.

Hellekson - Cross

32

1 Q Uh-huh.

2 A But, yes, that is correct.

3 Q Okay. So, in your own words -- and I'm going to end at
4 this -- Mr. Asbe lied to you several times, it's written in
5 your -- in your reports that he was untruthful about several
6 different things, correct?

7 A Yes, that's correct. That's correct.

8 Q Okay.

9 MS. FONTICIELLA: Nothing further, Your Honor.

10 THE COURT: Redirect?

11 MS. HARRIS: No -- sorry -- no, Your Honor.

12 THE COURT: Agent, the jail -- go back to the jail
13 calls. Did you actually listen to the jail calls?

14 THE WITNESS: I did not.

15 THE COURT: Then what is -- tell me again what's your
16 knowledge about them?

17 THE WITNESS: Following the initial interview of
18 Josiah Asbe, Burlington Northern Santa Fe police officer Kerri
19 Gortmaker requested the jail call recordings from the Cass
20 County jail. She listened to the recordings and wrote a
21 report, which I've been recently given. And then, so I never
22 listened to the actual jail calls myself.

23 THE COURT: Well, what is -- what does the report
24 say? I mean, you say recently. Did you get the report today?

25 THE WITNESS: No. Actually, I got the report -- I

Hellekson - By the Court

33

1 don't have it in front of me to know. Let's see.

2 THE COURT: But, so, you got it some time before
3 today?

4 THE WITNESS: No, I did get it before today. I did
5 get a copy of the supplement before today, it was in draft
6 form. I just got the final copy sent to me today.

7 THE COURT: What's your understanding of what
8 happened on the jail calls based on your review of the report?

9 THE WITNESS: Essentially, the calls made were to his
10 mother and father. This is Skylar Goodman to his mother and
11 father. At least one jail call, it appeared that his friend,
12 Tyler Salo, was present, because when Skylar asked -- when
13 Goodman asked either his mother or father to see if they can
14 make contact with the juvenile involved in this case, he was
15 advised by one of them that it was not a good idea and that he
16 needs to talk with Tyler. Tyler then got on the phone and
17 said that he would make contact with the juvenile, because he
18 had -- and what Goodman was asking was to see if the juvenile
19 was still on his side.

20 THE COURT: Did you know, was that contact ever made?

21 THE WITNESS: There was a later phone call between --
22 between Goodman -- and I'm looking for the report right now.
23 Sorry. Here we go. There was a later phone call made between
24 -- where Goodman was speaking with Salo. And forgive me a
25 moment, I need to look this up, if you don't mind.

Hellekson - By the Court

34

1 THE COURT: Sure.

2 THE WITNESS: So, on September 12th, which would have
3 been one of the jail calls, at 1353 hours, Goodman asked his
4 father if he knew anyone high up in Burlington Northern Santa
5 Fe who could be contacted, if they would drop the charges
6 against Goodman. During that conversation -- hold on, this is
7 a different one. Sorry about that. Okay. So, on 9/13/2020,
8 at 1141 hours, Goodman asked -- was speaking with his mother,
9 he asked if they got a hold of the juvenile. His mother told
10 him that would be a bad idea or it might be a bad idea.
11 Goodman's father said Goodman needed to call Tyler and talk to
12 him. Tyler Salo entered the call, and Goodman asked him to
13 call the juvenile and, quote, "feel him out," unquote, to see
14 if the juvenile had heard anything about Goodman's arrest.
15 Goodman told Tyler Salo to tell the juvenile the situation
16 after he felt him out, and if it appeared that the juvenile
17 was still on Goodman's side, to reiterate that the juvenile --
18 that Goodman still needed him on his side.

19 THE COURT: So, my question is, did he -- did that
20 conversation actually take place?

21 THE WITNESS: Yes.

22 THE COURT: Okay. What's -- what's your knowledge of
23 that? What happened?

24 THE WITNESS: My knowledge comes from the report
25 written by Burlington Northern Santa Fe police officer --

Hellekson - By the Court

35

1 THE COURT: I understand. Let me rephrase my
2 question.

3 THE WITNESS: I'm sorry.

4 THE COURT: No, that's all right. I understand where
5 you're getting this information from. So, what happens?

6 THE WITNESS: I'm unaware if -- if that -- let's see
7 -- maybe I'll look at a subsequent phone call to see if we
8 have what happened (indiscernible).

9 THE COURT: The question is, did Tyler -- do you
10 know, did Tyler talk to the juvenile?

11 THE WITNESS: I'm looking for a subsequent phone
12 call, I think is here --

13 MS. FONTICIELLA: Your Honor, may I object?

14 THE WITNESS: -- which would explain the answer to
15 that.

16 THE COURT: Hold on one second. We have an
17 objection.

18 MS. FONTICIELLA: I mean, I think we're kind of going
19 down a rabbit hole. I don't know that there has been any
20 evidence that that conversation actually occurred. I
21 certainly haven't been provided with any of the -- and that's
22 not Ms. Harris's fault, just for the record -- any information
23 about any jail phone calls or anything, so I would --

24 THE COURT: Well, I'm -- I'm trying to figure out
25 what's going on, too. I mean, I'm asking the question, and so

Hellekson - By the Court

36

1 that's my -- my question is, so, according to the agent, there
2 was a request made to talk to this juvenile witness, so the
3 question is, did that happen? And, I mean, I -- I don't know
4 what the objection is. I mean --

5 THE WITNESS: Well --

6 MS. FONTICIELLA: Well, relevance, I guess, would be
7 the objection, and there is no facts in evidence. And I --
8 this is really weird to object to a judge's question, Your
9 Honor, so I apologize. But, I -- there's -- there's really no
10 -- I think it's getting outside the scope of what's already in
11 evidence.

12 THE COURT: He -- I mean, he testified to it earlier,
13 but then he didn't really go into any of it, so I'm curious,
14 I'm -- I'm just --

15 MS. FONTICIELLA: Yeah.

16 THE COURT: -- I'm trying to figure out what
17 happened. So, I mean, I think it's -- I think there are facts
18 in evidence, they just haven't been -- they haven't been
19 revealed yet. I mean --

20 MS. FONTICIELLA: Well, I mean, I know I'm going to
21 get overruled, Judge, but --

22 THE COURT: I understand.

23 MS. FONTICIELLA: -- I'd say that if they haven't
24 been revealed yet, I don't know that they exist, is my --
25 outside -- outside of what -- the knowledge of what the agent

Hellekson - By the Court

37

1 knows about what's inside those jail phone calls, I don't
2 think that there's anything else outside of that is my point.
3 And I'll leave it at that, Your Honor.

4 THE COURT: Okay. I'm going to overrule the
5 objection.

6 And I just want to know, did -- did the phone call
7 take place or did the contact take place? Because the agent
8 testified now -- I mean, he testified to it on direct, but he
9 didn't really go into it, at least I thought he --

10 MS. FONTICIELLA: Well, in my --

11 THE COURT: -- he made some reference to it.

12 MS. FONTICIELLA: Okay. And I might be getting
13 confused. My understanding is that he testified that there
14 was a jail phone call where he asked for that, not that it
15 went any further than that.

16 THE COURT: Well, he didn't say. Like I say, he said
17 there was this -- there was a request made -- what I heard him
18 say, "Tyler, hey," mom says, "Bad idea." He then says, "But
19 I'll -- let me talk to Tyler." Gets in touch with Tyler. At
20 least, correct me if I'm wrong, that's what I'm hearing. It's
21 kind of hard to follow this. He then says, "I'll talk to" --
22 he says to Tyler, "Tyler, go contact the juvenile." So, my
23 question is -- and we just left it at that. I'm like, well,
24 do we know, did he contact the juvenile? I think that's a
25 fair question.

Hellekson - By the Court

38

1 And, Agent Hellekson, do you know, did he contact the
2 juvenile?

3 THE WITNESS: There's a phone call on September 13th,
4 where Skylar is again talking to Tyler at 2022 hours, where
5 Tyler said -- or answers and said that he spoke with the
6 juvenile who told -- told Tyler that he had Goodman's back.
7 Tyler was unsure if he trusted the juvenile, because the
8 juvenile's statements were all over the place, but Tyler told
9 Goodman that the best that they could do was to believe the
10 juvenile for now when he said that he had Goodman's back.

11 So, that's what I have for now as far as showing that
12 the telephone call could have taken place between Tyler Salo
13 and the juvenile.

14 THE COURT: Okay. And then, that was while he was
15 still in custody, he hadn't been released yet, because he was
16 released on September 14th?

17 THE WITNESS: That is correct.

18 THE COURT: But my guess is, do you know -- were you
19 at the detention hearing?

20 THE WITNESS: I was not.

21 THE COURT: Okay. Do you know about what's the time
22 frame of when he -- he then talks to this other guy, Asberry
23 (sic)? Is that the right pronunciation?

24 MS. HARRIS: Asbe.

25 MS. FONTICIELLA: Asbe.

Hellekson - By the Court

39

1 THE WITNESS: Yes, we do have -- we do have a time
2 frame on that, and that's according to Asbe himself.

3 THE COURT: When is it that he -- when is the first
4 contact made with Asbe?

5 THE WITNESS: So, the first contact following his --
6 Goodman's release, the first contact with Asbe -- with Asbe
7 was a text, where -- I believe it was over Snapchat. Stand
8 by.

9 THE COURT: What is his involvement in the case, may
10 I ask? Is he the case agent?

11 MS. HARRIS: (No audible response.)

12 THE WITNESS: He contacted Asbe via Snapchat on 9/14
13 and set up a meeting for 9/15, so September 15th.

14 THE COURT: So, on the date he was released on bond,
15 he contacted Asbe?

16 THE WITNESS: Yes.

17 THE COURT: And you have a Snapchat? Because that
18 was my other question, was going to be -- because I think the
19 defense called into question the reliability of Asbe. You
20 have a Snapchat that says "Meet with me"?

21 THE WITNESS: We are attempting to get a hold of that
22 through legal procedure right now. We do not have a copy of
23 that.

24 THE COURT: Well, I mean, you just testified to it.
25 Where -- are you the case agent?

1 Hellekson - By the Court

40

2 THE WITNESS: Yes, I am.

3 THE COURT: Okay. So, Agent Hellekson, then how do
you know about the Snapchat?

4 THE WITNESS: This is what was relayed to us by Asbe,
5 by Josiah Asbe during his second interview.

6 THE COURT: Do you have any corroboration about
7 anything that Asbe told you?

8 THE WITNESS: Regarding this contact? Not at this
9 time.

10 THE COURT: Any contact?

11 THE WITNESS: We have -- no, not at this time. We
12 don't have any -- we're still in legal proceeding.

13 THE COURT: You went --

14 THE WITNESS: We don't have any direct evidence.

15 THE COURT: So what was your evidence that you
16 presented to the Grand Jury; your testimony?

17 THE WITNESS: It was my testimony, being the two
18 interviews with Josiah Asbe, and Asbe's testimony.

19 THE COURT: So he testified to the Grand Jury?

20 THE WITNESS: Yes.

21 THE COURT: Any questions based on my questions?

22 MS. FONTICIELLA: I have -- I have a question, Your
23 Honor.

24 THE COURT: You may.

25 MS. FONTICIELLA: I'm sorry.

Hellekson - Further Cross

41

1 FURTHER CROSS EXAMINATION

2 BY MS. FONTICIELLA:

3 Q In your -- in the report that you wrote, you actually sat
4 down with Asbe in one of your interviews with him and looked
5 at his Snapchat, correct?

6 A That would be -- yes, another agent did that, Agent Sarah
7 Fason (phonetic).

8 Q Okay. And then, and that agent said that he checked his
9 messages --

10 A Let me -- I'll pull it out real quickly.

11 Q I'm on page 4 of 7 again. The agents could not find any
12 of the accounts that he said threatened him --

13 A Yes.

14 Q -- when they were looking at it in their presence. So,
15 you looked at the -- somebody looked at the phone and didn't
16 see anything, right?

17 A Yes.

18 Q Was that presented at the Grand Jury?

19 A I wasn't privy to that, about whether or not he testified
20 to it, and I did not testify to that in the Grand Jury.

21 Q Okay. So you withheld that you didn't -- that somebody
22 looked at the phone and didn't see anything, at the Grand
23 Jury, when he was being indicted for this?

24 MS. HARRIS: Your Honor, I'm --

25 THE WITNESS: I was not asked the question, and it

1 didn't come up in the Grand Jury.

2 MS. FONTICIELLA: Okay.

3 THE COURT: Any other questions of this witness?

4 MS. FONTICIELLA: Not from the defense, Your Honor.

5 MS. HARRIS: No, Your Honor.

6 THE COURT: All right. Agent, thank you. You're
7 free to go about your day. Thank you.

8 THE WITNESS: All right. Thank you.

9 (Witness excused.)

10 THE COURT: Do you have other evidence you wish to
11 present?

12 MS. HARRIS: No, Your Honor.

13 THE COURT: Okay. Government rests.

14 MS. HARRIS: Yes.

15 THE COURT: Do you wish to present evidence?

16 MS. FONTICIELLA: Your Honor, I have his mother here.
17 Shirley Goodman. And she should not take very long at all.

18 THE COURT: You may present her.

19 MS. FONTICIELLA: Ms. Goodman, come forward.

20 (SHIRLEY GOODMAN, DEFENDANT'S WITNESS, SWORN.)

21 THE COURT: You're going to have a seat where the
22 officer previously was seated, and same, you can take your
23 mask on or off or however you want to do it.

24 MS. GOODMAN: Please. Thank you.

25 THE COURT: You may proceed.

S. Goodman - Direct

43

1 MS. FONTICIELLA: May I stay seated, Your Honor?

2 THE COURT: You may. How ever you want to proceed.

3 MS. FONTICIELLA: Okay.

4 DIRECT EXAMINATION

5 BY MS. FONTICIELLA:

6 Q Can you please state your name for the record?

7 A Shirley Lee Goodman.

8 Q And where do you reside?

9 A At 1309 Quail Ridge Drive, Alexander, Arkansas.

10 Q And are you Mr. Goodman's mother?

11 A Yes.

12 Q And he lives with you, right?

13 A Yes.

14 Q And he's lived with you since -- since he came back to
15 Arkansas?

16 A He was living with me in North Dakota, and, yes, and then
17 he was able to come here a couple of weeks before I was able
18 to come, yes.

19 Q Okay. And how old is he?

20 A 19.

21 Q When is his birth date?

22 A June 2nd.

23 Q Okay. So he just turned 19?

24 A Yes.

25 Q Okay. And are -- are you aware of any job opportunities

S. Goodman - Direct

44

1 that he has here in Arkansas?

2 A Yes. He did try to go with Tyler -- Tyler was living with
3 us. He is no longer living with us. He's back in the state
4 of North Dakota. Tyler was living with us and him and Skylar
5 was able to go out on this one job, this one morning, and he
6 -- Skylar called me, he was like -- I -- I had went somewhere,
7 and I don't remember, I'm sure Skylar knows, but I wasn't at
8 home that moment. And he's like --

9 Q Well, I'm not talking about jobs in North Dakota. I'm
10 talking about any job opportunities --

11 A No, this is here.

12 Q Okay. Got you.

13 A Yeah. In Arkansas. And that's what I was going to say is
14 it was raining really, really hard that day. And he started
15 calling, complaining, "Mom, I've got my work boots and the
16 shoelaces broke. The shoelaces broke. I need shoelaces."
17 So, I actually Venmoed him some money that day, and it says
18 "shoelaces" on it. And I said, "Go get shoelaces and get to
19 this job." And then, on my phone, I also texted him later and
20 I asked, I said, "Did you guys make it to this job?" They had
21 went over there, and I guess the guy sent them to another
22 place to -- to work. When he went over there, I -- I know the
23 boots came home all muddy and all of this, but I think he had
24 Skylar shoveling or something, but then they was making racist
25 comments to the boys and doing some other things, and Skylar

S. Goodman - Direct

45

1 and Tyler said they felt very, very uncomfortable. They
2 didn't feel like it was a good idea to stay there, so they
3 came back to the house.

4 Q So, he's trying to find another job now?

5 A Yeah.

6 Q Okay.

7 A And so, then, this last week, Monday of this week, he went
8 and did a physical for a job, for a crane place or something

9 --

10 Q Okay.

11 A -- construction.

12 Q Something in the construction business?

13 A Yes. Something. So he did try again.

14 Q Okay. That's -- that's fine. I just want to make sure
15 the Court knows he's actively --

16 A Yes, ma'am, he is, he's been trying.

17 Q -- seeking employment.

18 A And like I said, they have scheduled him for like so many
19 drug tests that he -- there for a while he was doing them like
20 every other day.

21 Q Uh-huh.

22 A And, so, it's hard to kind of coincide with that. And --

23 Q Sure.

24 A -- but he has been trying.

25 Q Okay. And you've never known him to be a violent person,

S. Goodman - Direct

46

1 correct?

2 A No, not towards me. I mean, he's a kid. And, I mean,
3 teenagers, they do get angry and upset, at mom especially.
4 And, but, nothing that I felt in fear of my life for, no.

5 Q Okay. And you would make sure that he comes to court?

6 A Oh, I have -- even on the other case that they mentioned,
7 I call, I have talked, I have texted Mr. Geiggar on things,
8 too, to check on things. I -- and his other lady that he had
9 in North Dakota, I was -- had called her numerous times.
10 Constantly in contact with somebody to let them know where he
11 is or what he's doing. And I let him know, "I'm not covering
12 for you." I mean, so.

13 Q Okay. But you'll --

14 A Yes.

15 Q -- you know, he's 19 years old, so you're helping him make
16 sure that he's --

17 A Yes.

18 Q -- where he's supposed to be?

19 A I sure do.

20 Q Will you make sure he gets to North Dakota to court?

21 A We've been planning on that already. Yes.

22 Q Okay.

23 A He's got the other court date. And, yes, we've already
24 been in contact with them, trying to make sure that he's
25 there, and when we have to do whatever we have to do. Yes. I

S. Goodman - Direct/Cross

47

1 haven't taken work again. I was actually a manager, and I
2 haven't taken work at this time so that I can deal with him.

3 Q Okay.

4 A So.

5 Q And I don't have anything further.

6 A Okay.

7 CROSS EXAMINATION

8 BY MS. HARRIS:

9 Q And, ma'am, are you aware of the charge that he picked up
10 in June of 2020 for a fight with his then girlfriend or
11 ex-girlfriend?

12 A Am I aware of the case?

13 Q Uh-huh.

14 A Yes.

15 Q What is the status of the case?

16 A We've been told numerous different things. We were told
17 and -- that it was a possible misdemeanor or going to get
18 reduced to that is what his attorney -- I haven't talked to
19 him, that's what Mark had, I guess, revealed to Skylar, that
20 it could be dropped to a misdemeanor or dropped completely.
21 So, Mr. Lancaster, actually, the day he was getting out of
22 jail, showed up in the courtroom to represent him, because
23 Chad Pennington couldn't make it that day, and he spoke to the
24 judge that day in the courtroom and said they expected it to
25 be a misdemeanor or dropped completely. And then, at a later

S. Goodman - Cross

48

1 date, last week, Skylar talked to his attorney, Mark Frieze
2 (phonetic), and said that we do need to go ahead and go to
3 trial, I believe it's trial, on November 17th, and that he
4 wanted Skylar to be there a little bit early so that he could
5 go over the case with him. I guess they've brought in some
6 new witnesses. So, that's all I know on that.

7 Q Okay. Because we have a date of October 7th, 2020.

8 A Okay.

9 Q Did he go to court that date?

10 A On when?

11 Q I'm sorry.

12 A No, he didn't -- the one court date, he did not have to
13 go.

14 Q Okay.

15 A We called -- we called in advance and they told him he did
16 not have to be there. I guess Mark represented him or
17 something. And we did talk to the bond lady, so he did not
18 have to be at one of the court hearings.

19 Q Okay.

20 A So.

21 Q It just says on here October 7th, 2020.

22 A Yeah. He didn't have to go.

23 Q Okay.

24 A They've been like reducing this and reducing it down to
25 where they haven't needed him to be present at all, so.

S. Goodman - Cross

49

1 Q And you heard -- you were in the courtroom when the agent
2 was testifying?

3 A When?

4 Q Just a few moment -- just a little bit ago, the agent was
5 on the phone?

6 A I don't remember him. They didn't go over -- this is the
7 most I've heard of this case.

8 Q No. No. I'm just saying, have you been in the courtroom
9 --

10 A Today? Yes.

11 Q -- throughout this hearing today?

12 A Yes. Yes.

13 Q Okay. And you heard the agent talk about jail calls?

14 A Yes.

15 Q Calls -- did you speak with your son while he was in jail?

16 A Yes, I did.

17 Q Okay. And did you all discuss having his friend, and I
18 believe you said this was the friend that was living with him,
19 Tyler Salor (sic)?

20 A Salo wasn't living with us at that time. He was there
21 visiting --

22 Q Okay.

23 A -- off and on, on different days. It was -- they lived
24 across the street from us in some apartments.

25 Q Did you hear the discussion about having Salor (sic)

S. Goodman - Cross

50

1 contact the juvenile?

2 A No, I didn't.

3 Q You did not hear that?

4 A No, I didn't.

5 Q Did you know anything about it prior to the agent talking
6 about it?

7 A What Skylar -- if you're asking if Tyler said something,
8 no, I didn't hear their conversation. Skylar asked me -- or
9 said something about getting -- he needed to talk to Dion or
10 something, and I said, "That's probably not a good idea,
11 Skylar, you don't need to be doing anything to do with this
12 case." So.

13 Q Okay.

14 A But as far as when him and Tyler talked, I don't know what
15 was said.

16 Q Okay. But Tyler talked to you about it?

17 A Tyler did?

18 Q That's what I'm asking. I thought that's what you just
19 said?

20 A No. Skylar.

21 Q Skylar?

22 A Yeah.

23 Q I'm sorry.

24 A And that's what the agent was saying, was on the phone he
25 overheard Skylar saying he needed to get in contact with him

S. Goodman - By the Court

51

1 -- with the juvenile, and I said that it wasn't a good idea.

2 MS. HARRIS: Okay. Your Honor, that's all the
3 questions I have.

4 THE COURT: Redirect?

5 MS. FONTICIELLA: That's all I have, Your Honor.

6 THE COURT: Did you attend the detention hearing they
7 had in North Dakota?

8 THE WITNESS: Yes, sir.

9 THE COURT: And did the judge there, Judge Senechal,
10 did she hear the testimony of the charge with the ex-
11 girlfriend or the girlfriend?

12 THE WITNESS: That's the one that Mr. Lancaster spoke
13 about, that he said that he expected it -- that he had been on
14 the phone that day with Mark Frieze, the other attorney, and
15 that it was expected to be dropped down to a misdemeanor if
16 not dropped completely.

17 THE COURT: But, I mean, that was considered when the
18 judge --

19 THE WITNESS: Yes.

20 THE COURT: -- released him?

21 THE WITNESS: Yes, it was.

22 THE COURT: All right. And, but, none of the jail
23 conversation or anything came up at that hearing, did it?

24 THE WITNESS: No.

25 THE COURT: And --

S. Goodman - By the Court

52

1 THE WITNESS: No, they didn't speak about any -- like
2 I've heard more today than I've heard altogether.

3 THE COURT: And were you ordered -- I can't remember,
4 were you ordered to be what's called a third party custodian
5 for your son?

6 THE WITNESS: What is that?

7 THE COURT: Okay. Apparently, you weren't.

8 THE WITNESS: No. I was just told that he had to
9 reside with either me or dad. And, so, I waited back in North
10 Dakota and kept my job in case they wasn't going to release
11 him, because they had -- they said it's like a privilege, I
12 guess, for him to get accepted here in Arkansas. So, they
13 said it's not a guarantee that he can come to Arkansas. So, I
14 stayed in North Dakota until he was able to be accepted. And
15 then I was able to go ahead and move. So, I was going to stay
16 in one place or the other, to where he had a place to stay.

17 THE COURT: What was -- what brought you all to
18 Arkansas?

19 THE WITNESS: My husband's job.

20 THE COURT: Which is?

21 THE WITNESS: He actually lost his job over the whole
22 mess with the train, and everything going on, that he lost his
23 position. And he was there almost 20 years. And they didn't
24 say it was for that, they said it was for something else. And
25 he actually lost his job, but he received another job offer --

1 S. Goodman - By the Court

53

2 opportunity to come here. Well, this was closer to family and
3 friends in this area. We know nobody other than who we met in
North Dakota.

4 THE COURT: What's the job here?

5 THE WITNESS: My husband?

6 THE COURT: Yes.

7 THE WITNESS: He's actually a regional manager. It's
8 for BNP Enterprises. They do derailments or whatever as well,
9 but --

10 THE COURT: It's the rail -- rail industry. Okay.

11 THE WITNESS: But not only that, it's also
12 construction and some other things. And he's been actually in
13 Louisiana since I've been here, so I haven't seen him. So.

14 THE COURT: Okay. He has a court hearing in like
15 less than two weeks?

16 THE WITNESS: Yes.

17 THE COURT: And that's the trial?

18 THE WITNESS: That's the trial, yes. They have told
19 us that he has to be there on the 17th. But Mark Frieze has
20 asked for us to show up a little bit early so he has a chance
21 to go over everything with him and what's going on.

22 THE COURT: All right.

23 THE WITNESS: So, I had made plans of leaving, not on
24 Friday, the 13th, I'm hoping to leave a couple of days prior
25 to that.

1 S. Goodman - By the Court

54

2 THE COURT: You're planning on taking him back to
3 North Dakota for trial?

4 THE WITNESS: Yes.

5 THE COURT: Okay.

6 THE WITNESS: That's why I said I haven't started
7 work or anything, so.

8 THE COURT: Any questions based on my questions?

9 MS. FONTICIELLA: No, Your Honor.

10 MS. HARRIS: No, Your Honor.

11 THE COURT: All right. Thank you, ma'am. You may
12 stand down.

13 THE WITNESS: Thank you.

14 (Witness steps down.)

15 THE COURT: Any other evidence you wish to present?

16 MS. FONTICIELLA: No, Your Honor. Just argument.

17 THE COURT: Defense rests.

18 Any rebuttal?

19 MS. HARRIS: No, Your Honor.

20 THE COURT: Do you wish to make argument?

21 MS. HARRIS: If the Court wants to hear argument.

22 THE COURT: I mean, here is where I am with it, Ms.
23 Harris.

24 MS. HARRIS: Okay.

25 THE COURT: I don't -- you know, there's serious --
there's a serious allegation in the indictment, and I don't

1 know what the Grand Jury heard, but the testimony here from
2 the agent was not very good. And, like I say, I don't know
3 whether it's just the fact that he's not here, or there. But
4 it seemed like he didn't really have much information, other
5 than this individual, Asbe, which I think the defense has
6 called into question the veracity of Mr. Asbe.

7 He obviously has to get back to go to trial, you
8 know, in short order. I'm inclined -- well, I would be
9 inclined to detain him based on trying to derail a train, but
10 the judge had already released him on that, and the judge had
11 heard this other information, Judge Senechal, and bonded him
12 out.

13 So, really, what we're here today for, in my opinion,
14 is the tampering with a witness, which, to me, seems pretty
15 weak.

16 He's got bigger problems than that, with -- he's got
17 an impending trial that, on this thing, if it's a felony, it
18 says a minimum two year mandatory minimum time in the -- in
19 the North Dakota state. That's what the charge says, the
20 information says, "mandatory minimum two years."

21 So, like I say, if he's convicted of it, I'm pretty
22 sure -- let me look at it.

23 MS. HARRIS: And is Your Honor saying that the trial
24 in the --

25 THE COURT: State trial.

1 MS. HARRIS: The state trial. Okay.

2 THE COURT: Yeah. See, so, I'm looking here at this
3 information. I don't know whether you gave that to me or
4 whether that was in my file. But, this June 27th, 2020 Class
5 C felony, it says, "minimum mandatory two years
6 incarceration."

7 So, like I say, he's got -- he's got serious
8 impending issues that he needs to get resolved here in the
9 next couple of weeks.

10 So, here is what I'm inclined to do, is let him go
11 back to North Dakota on his own. He's going to be up there
12 here in short order. And let Judge Senechal determine whether
13 he's violated her order and let her hear -- I mean, I think
14 probably the -- it sounds like the railroad police have more
15 information than the FBI. So, probably let the -- let the
16 judge up there deal with it on whether or not he tampered with
17 the witnesses or not. Right now, it's not looking so good.

18 MS. HARRIS: Well, and, Your Honor, I will say, and I
19 probably should have asked the agent this initially, he is
20 home and has been home under quarantine, so.

21 THE COURT: Even more reason he should have been
22 prepared.

23 MS. HARRIS: I know. So --

24 THE COURT: Like I say, I don't mean to be
25 disrespectful to him.

1 MS. HARRIS: No, I understand.

2 THE COURT: But I just -- the issue is I can't really
3 make much out of the testimony of the agent. The agent's
4 testimony was not good and not very persuasive, that, you
5 know, I don't know what's going on. And that's -- that's the
6 problem, is I think Judge Senechal needs to resolve that.

7 So, I'm going to release him on her order. I'm not
8 going to do anything else. He's got to get back up there for
9 trial.

10 But I will -- I will tell, Mr. Goodman, you -- your
11 mom gave you some great advice when -- when you initially
12 said, hey, I need to get a hold of anybody associated with the
13 case, and that was -- that's a bad idea. And I'm just going
14 to tell you that, you know, you've -- you've got some serious
15 issues here that you've got to get resolved, but you need to
16 tighten your game up big time. And Officer Geiggar is an
17 excellent Pretrial Officer, and if there's any sort of issues
18 with you, we're going to revoke you and we're going to get you
19 back in here in custody, and then you can go by U.S. Marshals.

20 But, right now, I mean, if I detain him, you know,
21 he's screwed on that trial date, because he'll never make it
22 up there. So, you know, that's literally like, what is it,
23 two weeks away -- less than two weeks away. So, and it's ten
24 days away -- or, no, nine days away. So, he can take care of
25 that matter, and then he can go before Judge Senechal and she

1 can determine whether or not she wants to revoke him, and she
2 can probably hear much better testimony from the -- from the
3 actual witnesses, versus me hearing it.

4 So, can we get him released today from --

5 THE COURTROOM DEPUTY: I just sent a e-mail to the
6 Marshals Office.

7 THE COURT: I'm going to release you on your order
8 from Judge Senechal in the case. And don't -- you -- you're
9 on thin ice. You've just been indicted on a second charge.
10 No shenanigans. You need to buckle down. You need to be at
11 home. Really doesn't need to be looking for work. You need
12 to be at home, getting ready for your mom to drive you back up
13 to North Dakota so you can get this other case resolved, and
14 then get before Judge Senechal. And we'll tell her what's
15 going on and she can figure out when she wants to see you in
16 relation to this other trial.

17 It's not a very good record that I just made, but is
18 that --

19 MS. FONTICIELLA: I think it's perfect.

20 THE COURT: -- is that fair enough guidance? All
21 right. And, like I say, I'm not trying to be mean to the
22 agent or whatever, but it's just, you know, in a -- in a
23 detention matter, he wasn't persuasive to make me think that I
24 should detain him.

25 MS. HARRIS: I understand, Your Honor.

1 THE COURT: All right. Anything else we need to take
2 up in this case? For the defense?

3 MS. FONTICIELLA: No, Your Honor.

4 THE COURT: For the United States?

5 MS. HARRIS: No, Your Honor.

6 THE COURT: All right. You all remain at ease.

7 Thank you all very much. I know I kept you late here.

8 MS. FONTICIELLA: Thank you.

9 THE COURT: And good luck to you, Mr. Goodman and Ms.
10 Goodman.

11 (Adjournment at 5:43 p.m.)

12 ELECTRONIC SOUND RECORDING CERTIFICATION:

13 I, court approved transcriber, certify that the foregoing is a
14 correct transcript from the official electronic sound
15 recording of the proceedings in the above-entitled matter.

16
17 /s/Robin Warbritton _____ December 5, 2020 _____
18 Signature of Approved Transcriber Date

19 Robin Warbritton _____
20 Typed or Printed Name

21

22

23

24

25